



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

SUMMIT REHAB CENTERS  
C/O THE MORRIS LAW FIRM  
702 S BECKLEY AVE  
DALLAS TX 75203

#### **Respondent Name**

PENNSYLVANIA MANUFACTURERS

#### **Carrier's Austin Representative Box**

Box Number 48

#### **MFDR Tracking Number**

M4-05-B338-01

#### **MFDR Date Received**

August 12, 2005

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "DOS 8/13/04 through 10/4/04: Services are not global and provided followed all fee guidelines. DOS 0/21/04: No EOB was provided by the carrier."

**Amount in Dispute:** \$640.04

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** The insurance carrier did not submit a position summary with the DWC060 response.

**Response Submitted by:** Gallagher Bassett Services

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 13, 2004 through October 4, 2004	Physical therapy services, muscle testing, functional capacity evaluation	\$640.04	\$296.40

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute filed on or after January 1, 2002.
2. 28 Texas Administrative Code §134.202 sets out the fee guideline for professional medical services provided on or after September 1, 2002.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated September 1, 2004, September 8, 2004, September 14, 2004, September 17, 2004, September 22, 2004, September 27, 2004, September 28, 2004, October 7, 2004, October 8, 2004, October 12, 2004, October 13, 2004, October 15, 2004, October 18, 2004, October 20, 2004, October 22, 2004, and November 11, 2004.

- 02300 – Fee Guideline MAR reduction
- 02782 – Unbundling

## **Issues**

1. Did the requestor submit an updated table of disputed services?
2. Are the disputed services bundled into other services rendered on the same day?
3. Is the requestor entitled to reimbursement?

## **Findings**

1. The requestor submitted an updated table of disputed services with a new disputed amount of \$640.04 for dates of service August 13, 2004 through October 4, 2004. Therefore the disputed charges noted on the new table of disputed services will be considered in this review.
2. Per 28 Texas Administrative Code §134.202 “(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section.” CCI edits were run to determine if edit conflicts exists for dates of service August 13, 2003 through October 31, 2003. The following CCI edit conflicts were identified:
  - Date of service August 13, 2004, procedure 99213 should not be billed on the same date of service as procedure 98940 without modifier -25. The requestor did not append modifier -25 to CPT code 99204. Reimbursement cannot be recommended for CPT code 99204.
  - Date of service August 16, 2004, procedure 99213 and component procedure 95851 are unbundled. A modifier is not allowed. Reimbursement cannot be recommended for CPT code 95851.
  - Date of service August 16, 2004, procedure 98940 and component procedure 99213 are unbundled. The Standard Policy Statement reads “CPT Manual and CMS coding manual instructions.” Reimbursement cannot be recommended for CPT code 99213.
  - Date of service August 25, 2004, procedure 99213 should not be billed on the same date of service as procedure 98940 without modifier -25. The requestor did not append modifier -25 to CPT code 99213. Reimbursement cannot be recommended for CPT code 99213.
  - Date of service August 27, 2004, procedure 97010, payment for this service is always bundled into payment for other services not specified and no separate payment is made. Reimbursement cannot be recommended for CPT code 97010.
  - Date of service August 27, 2004, procedure 98940 and component procedure 97140 are unbundled. The Standard Policy Statement reads “Standards of medical/surgical practice.” Reimbursement cannot be recommended for CPT code 97140.
  - Date of service August 30, 2004, procedure 99213 and component procedure 95851 are unbundled. A modifier is not allowed. Reimbursement cannot be recommended for CPT code 95851.
  - Date of service September 7, 2004, procedure 99213 and component procedure 95831 are unbundled. A modifier is not allowed. Reimbursement cannot be recommended for CPT code 95831.
  - Date of service September 7, 2004, procedure 99213 and component procedure 95833 are unbundled. A modifier is not allowed. Reimbursement cannot be recommended for CPT code 95833.
  - Date of service September 9, 2004, procedure 99213 should not be billed on the same date of service as procedure 98940 without modifier -25. The requestor did not append modifier -25 to CPT code 99213. Reimbursement cannot be recommended for CPT code 99213.
  - Date of service September 23, 2004, procedure 98940 and component procedure 97140 are unbundled. The Standard Policy Statement reads “Standards of medical/surgical practice.” Reimbursement cannot be recommended for CPT code 97140.
3. Review of the CMS-1500s indicates the requestor billed CPT code 97140 with modifier -59, for dates of service September 2, 2004, September 14, 2004, and September 16, 2004. The *CPT Manual* defines modifier -59 as

follows: **Modifier -59: "Distinct Procedural Service:** Under certain circumstances, the physician may need to indicate that a procedure or service was distinct or independent from other services performed on the same day. Modifier 59 is used to identify procedures/services that are not normally reported together, but are appropriate under the circumstances. This may represent a different session or patient encounter, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries)not ordinarily encountered or performed on the same day by the same physician. However, when another already established modifier is appropriate, it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used."

- Review of the documentation submitted by the requestor does meet the documentation requirements for appending the modifier -59, therefore reimbursement cannot be recommended for CPT code 97150-59 for dates of service September 2, 2004, September 14, 2004, and September 16, 2004.
4. Per 28 Texas Administrative Code §134.202 "(e) Payment policies relating to coding, billing, and reporting for commission-specific codes, services, and programs are as follows. (4) Functional Capacity Evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the commission shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using the "Physical performance test or measurement..." CPT code with modifier "FC." FCEs shall be reimbursed in accordance with subsection (c)(1). Reimbursement shall be for up to a maximum of four hours for the initial test or for a commission ordered test; a maximum of two hours for an interim test; and, a maximum of three hours for the discharge test, unless it is the initial test. Documentation is required."
- The requestor billed CPT code 97750-FC on October 4, 2004 and was denied by the insurance carrier as unbundled.
  - No CCI edit conflicts were found.
  - CPT code 97750-FC is a commission-specific code.
  - The requestor submitted a copy of the FCE report for date of service October 4, 2004 to support services rendered as billed.
  - The requestor is therefore entitled to reimbursement for 8 units as indicated on the CMS-1500.
  - The Medicare fee schedule amount is  $\$29.64 \times 125\% = \$37.06$  per unit,  $8 \text{ units} \times \$37.06 = \$296.50$ . The requestor requested \$296.40, therefore this amount is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$296.40.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$296.40 plus applicable accrued interest per 28 Texas Administrative Code § 134.803 for dates of service prior to 5/2/06, due within 30 days of receipt of this Order.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
February 27, 2013  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**